

Message Text

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DEPARTMENT PASS INTERIOR FOR DOTA/OMSN

CINCPACREP FOR HICOM AND STATUS LNO

E.O. 11652: GDS

TAGS: UN, TC, TTPI

SUBJECT: TRUSTEESHIP COUNCIL PROVISIONAL AGENDA

REF: A) USUN 190, B) USUN 127

1. SUMMARY: A LENGTHY UKUN LEGAL MEMORANDUM FORESEES THAT THE SECRETARIAT MAY DECIDE TO INCLUDE IN THE TRUSTEESHIP COUNCIL'S 1976 PROVISIONAL AGENDA ONE OR MORE ITEMS EXPLICITLY REATED TO GENERAL ASSEMBLY RECOMMENDATIONS. IN DUE COURSE APPROACHES TO THE UK AND FRANCE TO VOTE IN THE TC AGAINST INCLUDING GA-RELATED ITEMS WILL BE NECESSARY IF THE DEPT AGREES WITH USUN THAT SUCH ITEMS ARE UNDESIRABLE IN THE NEW SITUATION ARISING FROM THE FACT THAT MICRONESIA IS THE SOLE REMAINING TC BUSINESS. END SUMMARY

2. DETAILS. UKUN HAS KINDLY PROVIDED AN INTERNAL LEGAL MEMORANDUM WHICH ADDRESSES THE ISSUE OF THE ADVICE WHICH THE OUTGOING TRUSTEESHIP COUNCIL PRESIDENT, BRITISH DEPUTY PERMREP JAMES MURRAY, SHOULD GIVE THE SECRETARIAT IN THE LATTER'S
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PREPARATION OF THE PROVISIONAL AGENDA FOR THE 1976 SESSION

TRUSTEESHIP COUNCIL. MURRAY'S ROLE IS IMPORTANT BECAUSE WHILE, UNDER THE TC RULES OF PROCEDURE, THE SECRETARIAT IS RESPONSIBLE FOR DRAWING UP THE PROVISIONAL AGENDA, THE SECRETARIAT IS OBLIGED TO SEEK HIS RECOMMENDATIONS. THE QUESTION ARISES WHETHER MURRAY CAN INSIST THAT THE SECRETARIAT EXCLUDE FROM THE PROVISIONAL AGENDA ITEMS WHICH EXPLICITLY MENTION RESOLUTIONS ADOPTED BY THE GENERAL ASSEMBLY; THIS WOULD BE THE OPTIMAL RESULT FROM A US VIEWPOINT.

3. THE UKUN PAPER CONCLUDES THAT MURRAY CANNOT EXPECT TO WIN SECRETARIAT AGREEMENT TO EXCLUDE ALL ITEMS RELATING TO IMPLEMENTATION OF GA RESOLUTIONS IN THE TRUST TERRITORY WHICH PURPORT TO BE OF GENERAL APPLICATION. THE PAPER NOTES THE LONG PRACTICE OF INCLUDING THESE IN PAST TC SESSIONS WITHOUT US OBJECTION OR RESERVATION, AS WELL AS THE MANDATORY CHARACTER OF TC RULE 9 WHICH REQUIRES INCLUSION OF ITEMS PROPOSED BY THE GA, THE SYG, THE TC AT A PREVIOUS SESSION. SUBJECT TO LONDON'S AGREEMENT MURRAY WILL ADVISE THAT, WHILE THE SECRETARIAT IS ULTIMATELY RESPONSIBLE FOR ITS DECISION, IT SHOULD INCLUDE ANY GA-RELATED ITEMS ONLY IF IT CAN JUSTIFY DOING SO UNDER A SPECIFIC PROVISION OF TC RULES 9. WHILE USUN WILL BE WORKING TO PROMOTE A PROVISIONAL AGENDA WHICH EXCLUDES GA-RELATED ITEMS, IT IS CIRCUMSPECT TO ANTICIPATE THAT THE SECRETARIAT WILL INCLUDE ONE OR MORE OF THEM.

4. CONSEQUENTLY, IF THE ITEMS ARE CONSIDERED TO BE UNACCEPTABLE AS POSSIBLY SIGNALLING A US WILLINGNESS TO ADMIT THE COGENCY OF GA DECISION-MAKING ON MATTERS CONCERNING THE TRUST TERRITORY OF THE PACIFIC ISLANDS, AN APPROACH IS DUE COURSE IN LONDON AND PARIS WILL BE NECESSARY ASKING THE BRITISH AND FRENCH TO JOIN WITH THE US IN VOTING AGAINST INCLUDING THESE PROVISIONAL ITEMS ON THE DEFINITIVE AGENDA. THE GROUNDS FOR DOING SO WOULD, OF COURSE, BE (A) THE CHARTER'S BESTOWAL ON THE SECURITY COUNCIL, AND THE TRUSTEESHIP COUNCIL ACTING ON SC DELEGATION OF AUTHORITY, 59 3/34:8 3 "ALL FUNCTIONS OF THE UN RELATING TO STRATEGIC" TERRITORIES (ARTICLE 83), AND (B) THE UNPRECEDENTED SITUATION ARISING IN 1976 WHEN THE ONLY REMAINING TRUST TERRITORY, AND THUS THE SOLE BUSINESS OF THE TC, WILL BE THE STRATEGIC TTPI. WE MUST ANTICIPATE THAT THE USSR MAY OBJECT AND THAT THE DISPUTE OVER THE AGNEDA COULD BE ACRIMONIOUS. HOWEVER, IF LONDON, OR LONDON AND PARIS, WILL VOTE WITH THE US, WE ARE IN A POSITION TO

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KEEP THESE ITEMS OFF THE DEFINITIVE AGENDA; UNDER TC RULES 37 AND 38, TWO VOTES AGAINST IN A TC COMPRISING FOUR MEMBERS WILL BLOCK INCLUSION OF ANY ITEM.

5. OF COURSE, THE OPTIMAL POSTURE WOULD BE TO KEEP THESE ITEMS OFF EVEN THE PROVISIONAL AGENDA SINCE THIS WOULD PUT THE BURDEN OF PROPOSING THEIR INCLUSION ON THE USSR IF IT WISHED TO DO SO. HOWEVER, A READING OF THE UKUN LEGAL PAPER SUPPORTS IT CENTRAL CON-

CLUSION THAT MURRAY IS NOT IN A POSITION TO INSURE THEIR EXCLUSION
FROM THE PROVISIONAL AGENDA TO BE PREPARED BY THE SECRETARIAT, THE
RESPONSIBLE UNDER SYG BEING TANG OF CHINA.

6. COPY OF THE BRITISH MEMORANDUM BEING POUCHED TO JOHN BAKER,
IO. (IT ALSO DEALS HELPFULLY WITH THE RELATED QUESTION OF THE
31ST GA AGENDA, PER REFTEL A).
MOYNIHAN

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